

1 to go back to the record of proposed findings of fact and
2 conclusions of law and, and make a determination on whether or
3 not those cases are on all fours sufficient and then go on,

1 MR. BLUMENTHAL: Oh.

2 MR. SCHONMAN: -- is Judge Sippel's decision on this
3 Skidelsky issue. The issue was to determine the effects of
4 the Skidelsky case on this case.

5 CHAIRMAN MARINO: Okay, let's see.

6 MR. SCHONMAN: Issue number one, I haven't discussed
7 that yet this morning.

8 MR. BLUMENTHAL: Well, you, you have in the sense that,
9 that we have to decide whether this is a WIOO/KQED situation.
10 And, and I said that's going to depend on the record. Why
11 don't we give him exactly one minute --

12 CHAIRMAN MARINO: Okay. Go ahead. Let's see --

13 MR. BLUMENTHAL: -- to sum it up.

14 MR. SCHONMAN: All right.

15 CHAIRMAN MARINO: Let's see where you're going and
16 this --

17 MR. SCHONMAN: The Bureau believes --

18 MR. BLUMENTHAL: Fire it up --

19 MR. SCHONMAN: The Bureau believes that the ID in this
20 case was result oriented towards finding Normandy unqualified.
21 For example, the Bureau -- the ID makes much ado about the so-
22 called Stephen Borgos affidavit originally contained in
23 Normandy's exhibits. The typewritten affidavit involved
24 Normandy's AM station, WWSC.

25 CHAIRMAN MARINO: Mr. Schonman.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. SCHONMAN: Yes.

2 CHAIRMAN MARINO: That's the fourth strike. There were
3 three previous strikes in Judge Kuhlmann's case. Isn't
4 that -- in fairness to Judge Sippel, isn't that what he's
5 saying? There were four -- there were three previous --

6 MR. BLUMENTHAL: Well, let, let him argue his point.

7 CHAIRMAN MARINO: But go ahead.

8 MR. BLUMENTHAL: Let him argue his point.

9 MR. SCHONMAN: Board Member Marino --

10 CHAIRMAN MARINO: I know where he's going. That's
11 why --

12 MR. BLUMENTHAL: Yeah but --

13 CHAIRMAN MARINO: But go ahead.

14 MR. BLUMENTHAL: -- I don't.

15 CHAIRMAN MARINO: Go ahead.

16 MR. SCHONMAN: Along the sides of that document, the
17 Borgos affidavit, someone had written in handwriting on a
18 typewritten page the -- sign --

19 MR. BLUMENTHAL: We've read the -- we've read the --

20 CHAIRMAN MARINO: Yeah, go ahead.

21 MR. BLUMENTHAL: What's your point?

22 MR. SCHONMAN: My point is that that document was
23 rejected. It's not in evidence.

24 MR. BLUMENTHAL: Okay.

25 MR. SCHONMAN: Judge Sippel made rulings --

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. BLUMENTHAL: Okay.

2 [REDACTED]

[REDACTED]

1 otherwise. Now the ID --

2 CHAIRMAN MARINO: Isn't that what Judge Kuhlmann had
3 found?

4 MR. SCHONMAN: Judge Kuhlmann --

5 MR. BLUMENTHAL: All right --

6 MR. SCHONMAN: -- found that the licensee is
7 unqualified in that case.

8 CHAIRMAN MARINO: Why was he unqualified --

9 MR. SCHONMAN: The issue --

10 CHAIRMAN MARINO: -- Mr. --

11 MR. SCHONMAN: For doing the three misdeeds.

12 CHAIRMAN MARINO: What are the misdeeds?

13 MR. BLUMENTHAL: Oh, Mr. --

14 MR. SCHONMAN: Do you want me to list them? I'll list
15 them.

16 MR. BLUMENTHAL: Mr. Chairman, we have --

17 MR. SCHONMAN: Site assurance --

18 MR. BLUMENTHAL: -- we must let Mr. Tillotson get on.
19 We've now taken up -- and Mr. Schonman with all due respect,
20 the charges that you have just made I do believe are the most
21 serious charges I have ever heard Bureau counsel make against
22 a Commission ALJ. That is, one, that the decision was result
23 oriented and, and two, written in a way so as to coincide with
24 the result of Judge Kuhlmann's. If the Bureau truly believes
25 those, there are other fora in which to argue that. I believe

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 we rest --

2 CHAIRMAN MARINO: Okay.

3 MR. BLUMENTHAL: -- on your brief, Mr. Schonman and --

4 CHAIRMAN MARINO: We'll have 5 minutes for rebuttal.

5 MR. BLUMENTHAL: -- give Mr. Tillotson his chance.

6 MR. SCHONMAN: Thank you.

7 CHAIRMAN MARINO: Mr. Tillotson, you may begin.

8 MR. BLUMENTHAL: I take it back. Maybe when Wally
9 Miller of -- was with the hearing bureau we used to get -- we
10 used to get some stronger combinations.

11 MR. TILLOTSON: May it please the Board. I am David
12 Tillotson. I am representing Lawrence Brandt.

13 And I must say I, I understand why Mr. Lynch would
14 argue that the ALJ erred on the disqualification and erred on
15 the renewal expectancy. But I have been unable to fathom the
16 Bureau's arguments, particularly on renewal expectancy and
17 particularly where they know or the obviously had read or were
18 familiar with the Metroplex decision and the criterion and the
19 fact that they would come before the Board, argue that the
20 judge erred in denying the renewal expectancy where without
21 making any exceptions to failure to find this evidence in the
22 record that showed this aspect of the criterion, for example,
23 here is evidence that the licensee ascertained specific needs
24 and problems, and then here was evidence that they put on
25 programs that were responding to those needs, needs as

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 | ascertained.

2 | Mr. Schonman says this morning that those were evidence
3 | in the record that there was the first criterion
4 | ascertainment. The evidence in the record consists of nothing
5 | more than the self-serving statement of a licensee that says
6 | we conducted ascertainment, and we talked to a lot of groups
7 | and lists the number of groups. No information is --

8 | MR. BLUMENTHAL: Were there witnesses presented?

9 | MR. TILLOTSON: No witnesses presented.

10 | MR. BLUMENTHAL: Were there affidavits presented?

11 | MR. TILLOTSON: No affidavits as to ascertainment or
12 | that somebody said I was ever ascertained. There were a lot
13 | of -- there were very few -- there were, there were these,
14 | these letters of this station, thank yous. You presented,
15 | covered our blood mobile, covered the Red Cross, covered their
16 | Girl Scouts.

17 | MR. BLUMENTHAL: Well, okay, that's evidence.

18 | MR. TILLOTSON: But, but not -- but that didn't go to
19 | ascertainment. And it also didn't go to -- we don't -- and
20 | it's not disputed from the little bit of evidence there is --

21 | MR. BLUMENTHAL: You're not required --

22 | MR. TILLOTSON: -- that there was some --

23 | MR. BLUMENTHAL: -- you're not required to do
24 | ascertainment anymore.

25 | MR. TILLOTSON: Look. I'm sorry. I read, I read your

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 decision that says that the first point that you have to do is
2 you have to show that you've identified the community --

3 MR. BLUMENTHAL: No, what we say is that -- what we've
4 said is something slightly different, we can discuss this at
5 some seminar somewhere for historical purposes, is that even
6 though you are no longer required to do ascertainment, if a
7 licensee is coming in and seeking to show a very strong
8 renewal expectancy, we do not estop it from going in and
9 showing that it has done the most thorough going ascertainment
10 in the world.

11 The Mass Media Bureau in the Fox case argued that, that
12 it was entirely irrelevant that the licensee there seemed to
13 interview everybody in the entire Los Angeles area --

14 MR. TILLOTSON: My point is simply there's no evidence
15 that they, as to what they did. And I thought -- the Fox case
16 I thought was a very well-written decision, and it made a very
17 good point --

18 CHAIRMAN MARINO: Do we have to get to this --

19 MR. TILLOTSON: -- is the touchstone of a renewal
20 expectancy --

21 MR. BLUMENTHAL: Let him, let him argue.

22 MR. TILLOTSON: -- is the licensee's responsiveness to
23 ascertain community issues. The renewal applicant must show
24 how and what it is responding to. There's no evidence in this
25 record where Normandy came forward and says we for whatever

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 means determined that these were certain issues in the
2 community that were important. And these are programs that we
3 put forward to respond those needs.

4 MR. BLUMENTHAL: If you have some issues problems lists
5 in its file --

6 MR. TILLOTSON: No, but not issues. I mean what you
7 would have --

8 MR. BLUMENTHAL: Well, wait.

9 MR. TILLOTSON: Mr. Blumenthal, I'll tell you exactly
10 what you had. For the four quarters or so where there was an
11 issues programs list --

12 MR. BLUMENTHAL: Yeah.

13 MR. TILLOTSON: -- you might have during one of those
14 quarters blood mobile. Now the best I can fathom is that the
15 Red Cross came to the radio station and said we're having a
16 blood drive. The radio station, AM and FM, responded by
17 sending, going to the blood mobile --

18 MR. BLUMENTHAL: What's wrong with that?

19 MR. TILLOTSON: There's nothing wrong with that.
20 There's absolutely nothing wrong with that.

21 MR. BLUMENTHAL: Well, then why are you bringing it up?

22 MR. TILLOTSON: Because it's not what you said in --

23 CHAIRMAN MARINO: Mr. Tillotson, if we ever get to --
24 in your theory in the case. And this is where you can help
25 us.

1 MR. TILLOTSON: Yes.

2 CHAIRMAN MARINO: What's your theory in the case? Did
3 we ever get to this issue?

4 MR. TILLOTSON: Well, I --

5 CHAIRMAN MARINO: A legitimate renewal expectancy in
6 your theory of the case?

7 MR. TILLOTSON: Well, my theory of the case is that the
8 case, that the, that the judge was absolutely correct. Not
9 only was absolutely correct in the result from Skidelsky, but
10 if you've got collateral estoppel on three
11 misrepresentations --

12 CHAIRMAN MARINO: Do we have collateral estoppel in the
13 judges --

14 MR. TILLOTSON: I believe so because --

15 CHAIRMAN MARINO: Did you read the Commission's
16 decision that the judge cites we find that it's not
17 appropriate to give findings of the ALJ on this issue
18 collateral effect --

19 MR. BLUMENTHAL: Well, that was because there were two
20 different parties --

21 CHAIRMAN MARINO: -- since these findings -- no, no.
22 Since these findings were not actually litigated to a final
23 decision in which they were necessary for the outcome.

24 MR. BLUMENTHAL: Oh --

25 MR. TILLOTSON: In the end, you gentlemen will have to

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 decide that. I believe on this record where he had filed an
2 application for review, had taken the matter to the
3 Commission, had the Commission done what the Board did and
4 said we -- had reached his application for review and said
5 we're not going to reach those issues, because we can decide
6 it on this issue. Had they done that, I think he'd have an
7 argument --

8 MR. BLUMENTHAL: Are you accusing Ms. Reed of being a
9 gentleman?

10 MR. TILLOTSON: I'm sorry. The gentleman and the --

11 MR. BLUMENTHAL: Okay.

12 MR. TILLOTSON: -- I don't think she was on the Board
13 in Skidelsky.

14 CHAIRMAN MARINO: All right. That's on the, that's on
15 the question of collateral estoppel.

16 MR. TILLOTSON: I don't think she was on appeal in
17 Skidelsky.

18 MR. BLUMENTHAL: -- these things these days --

19 CHAIRMAN MARINO: All right. Let's, let's get --

20 MR. TILLOTSON: Okay. The point --

21 CHAIRMAN MARINO: Assuming that we agree --

22 MR. TILLOTSON: So I'm saying that, that if the, if the
23 Commission had -- if the matter had been -- if the application
24 for review that they had filed had been acted upon --

25 CHAIRMAN MARINO: Wouldn't you feel better if de novo

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 review of Skidelsky and said we've got those exceptions before
2 us --

3 MR. TILLOTSON: I don't have any problem with you doing
4 that. I --

5 CHAIRMAN MARINO: And if we did that and --

6 MR. TILLOTSON: The result --

7 CHAIRMAN MARINO: -- as we promised Mr. Lynch that we
8 would do --

9 MR. TILLOTSON: I don't have any problem --

10 CHAIRMAN MARINO: -- in Skidelsky --

11 MR. BLUMENTHAL: Well, I'm not sure we did.

12 CHAIRMAN MARINO: Whether we can.

13 MR. TILLOTSON: I --

14 CHAIRMAN MARINO: Whether we can or not. Okay.

15 MR. BLUMENTHAL: We may have to ask for briefs on this.

16 MR. TILLOTSON: -- to say I'm going to -- I, I don't
17 that there's -- I have looked at the law on this a number of
18 times on collateral estoppel. I looked at in the Western
19 Cities case where there's. you know. a renewal hearing going

1 CHAIRMAN MARINO: What issue was presented to this
2 Commission?

3 MR. TILLOTSON: The, the Skidelsky issues.

4 CHAIRMAN MARINO: No, the only Skidelsky issue that was
5 before the Commission was our decision finding that the
6 applicant --

7 MR. TILLOTSON: I believe --

8 CHAIRMAN MARINO: -- did not have a transmitter site.
9 We never reached any other --

10 MR. TILLOTSON: No, no -- I believe when the licensee
11 went for an application for review, the licensee had to take
12 all of those issues out. In other words, you had ruled that
13 he was disqualified on the ones that we were --

14 CHAIRMAN MARINO: Mr. Tillotson, I think, I think
15 collateral estoppel has got to be litigated all the way up the

16 line. It wasn't litigated, but let's see, this is

1 qualifications though --

2 CHAIRMAN MARINO: I agree with you.

3 MR. TILLOTSON: On the qualifications on the WIOO type
4 argument --

5 CHAIRMAN MARINO: Okay.

6 MR. TILLOTSON: -- I've never quite understood WIOO.
7 It seems if some licensee lies to the agency and is found that
8 he can't be trusted --

9 MR. BLUMENTHAL: Mr. Tillotson, your, your law firm
10 represented WIOO --

11 MR. TILLOTSON: I'm not -- I'm --

12 MR. BLUMENTHAL: -- and won.

13 MR. TILLOTSON: Former law firm.

14 CHAIRMAN MARINO: Not anymore.

15 MR. TILLOTSON: Look --

16 CHAIRMAN MARINO: But go ahead.

17 MR. TILLOTSON: I don't --

18 CHAIRMAN MARINO: We're bound by a Commission
19 decision --

20 MR. BLUMENTHAL: Don't understand that case?

21 MR. TILLOTSON: No, but --

22 CHAIRMAN MARINO: Go ahead.

23 MR. TILLOTSON: The Commission decision said that it
24 didn't ipso facto follow that they had to be disqualified. It
25 certainly didn't say we'll ignore the fact that they lied to

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 us here. I believe that when a licensee has been found to
2 make serious misrepresentations that, and found that you
3 cannot trust the licensee, that trust isn't -- lack of trust
4 is not case specific.

5 MS. GREENE: What are you suggesting, that we can't go
6 back and, and look at the questions he raised as to the, the
7 findings of those serious misrepresentations?

8 MR. TILLOTSON: You certainly can't go back -- that's,
9 I think that's clear that the --

10 MR. BLUMENTHAL: If that were true, the court would not
11 have affirmed us in KQED. We found that KQED, a very
12 prominent public broadcast station, had been untruthful with
13 the Commission, in fact had lied, in fact had lied through
14 it's teeth. We took away Channel 32 television station from
15 KQED, but we renewed Channel 9 San Francisco on --

16 MR. TILLOTSON: I understand what --

17 MR. BLUMENTHAL: -- the FM station.

18 MR. TILLOTSON: I understand, I understand --

19 MR. BLUMENTHAL: So if your proposition were correct --

20 MR. TILLOTSON: But you missed, you missed my point.

21 MR. BLUMENTHAL: -- that, that character is not
22 separable --

23 MR. TILLOTSON: You missed my point, Board Member
24 Blumenthal.

25 MR. BLUMENTHAL: Okay. What is your point?

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. TILLOTSON: My point was I believe that, that you
2 can't simply say it's case specific. I'm not saying that the
3 Commission can't in the next case that comes up look at the
4 nature, the pervasiveness, the extent and determine whether --
5 I mean you're not disqualified once and for all --

6 MR. BLUMENTHAL: Maybe we should say that its character
7 policy statement that that is precisely what it is going to
8 do.

9 MR. TILLOTSON: What?

10 MR. BLUMENTHAL: It will look --

11 MR. TILLOTSON: At each case --

12 MR. BLUMENTHAL: -- at each case and determine the
13 nature, extent --

14 MR. TILLOTSON: That's what I said.

15 MR. BLUMENTHAL: Okay.

16 MR. TILLOTSON: I'm agreeing with you.

17 MR. BLUMENTHAL: Okay.

18 MR. TILLOTSON: That you can do it.

19 CHAIRMAN MARINO: All right.

20 MR. TILLOTSON: I'm agreeing with -- we're not arguing.

21 MR. BLUMENTHAL: Oh, okay.

22 CHAIRMAN MARINO: And the judge admitted here --

23 MR. TILLOTSON: I believe you can do it, but I'm saying
24 that when you have --

25 MR. BLUMENTHAL: You sounded argumentative.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. TILLOTSON: When you have -- that's my nature.

2 When you have --

3 MR. BLUMENTHAL: I --

4 MR. TILLOTSON: -- three findings of misrepresentation
5 in the same case. And note Judge Kuhlmann said after the
6 third one about failing to disclose the sister's interest, he
7 says it's, basically it was a trivial problem. But he said
8 when you put that together with the other two, there's,
9 there's a pattern. The pattern carries over into this case.
10 The Borgos affidavit.

11 CHAIRMAN MARINO: How?

12 MR. TILLOTSON: The Borgos affidavit. This wasn't
13 something over in the margin. It was an interlineation. It
14 wasn't a parenthetical. It was there because the -- Mr.
15 Borgos had said, had talked about WWSC --

16 MS. GREENE: Did we look at it if it's not in the
17 record?

18 MR. TILLOTSON: It's in the record. It's somewhere
19 with the record.

20 CHAIRMAN MARINO: It wasn't received as evidence.

21 MR. TILLOTSON: It goes -- it was proffered. It's
22 the -- I mean the, the -- all these exhibits go with the
23 record. It's received --

1 MR. TILLOTSON: We -- the judge looked at the -- says
2 look, the man came forward --

3 MR. BLUMENTHAL: Is it part of a pleading?

4 MR. TILLOTSON: Huh?

5 MR. BLUMENTHAL: Is it part of a pleading?

6 MR. TILLOTSON: The document is as I understand it
7 when, when a --

8 MR. BLUMENTHAL: Is it in the docket?

9 CHAIRMAN MARINO: Yes, it's in the docket.

10 MR. TILLOTSON: It's in the docket.

11 MR. BLUMENTHAL: Okay.

12 MR. TILLOTSON: When, when an exhibit is rejected, it
13 was not received, it still goes with the record.

14 The Borgos is one point. You then have Mr. Lynch who
15 got in trouble and was disqualified in the Queensbury case,
16 because he made representations to the Commission about
17 programming, and he swore in written testimony this is what my
18 programming was. And when -- and in the threshold showing.
19 And then when logs and documents were brought forward, they
20 showed him to be -- he couldn't -- they're inconsistent with
21 what he swore --

22 MS. GREENE: Were they --

23 MR. TILLOTSON: -- and -- excuse me. One other point
24 I'm at. And then when asked well, did you go back yourself to
25 verify what you're saying here against material that you had

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 in your files, your logs and other things, he hadn't done
2 that.

3 That's exactly what he did here. He comes in with a
4 programming exhibit after the renewal period and says this is
5 my programming. He didn't volunteer that by the way, this was
6 after the renewal period. But when confronted with that, oh

1 that he called them. The FM logs showed none. He explained
2 oh, we did it differently for some reason. But it was, you
3 know.

4 Here you were keeping records. The same record keeper
5 is keeping them. And once confronted with the records he said
6 oh, but that's really -- we did something more. They just
7 didn't -- the same record keeper for whatever reason didn't
8 log them there where she logged them here.

9 Now maybe that's true. I find it's a self-serving
10 explanation out of a, of a problem where your own business
11 records refute what you're saying under sworn testimony.

12 CHAIRMAN MARINO: Which findings are you --

13 MR. TILLOTSON: That's in the, that's in the Skidelsky
14 case in Queensbury.

15 CHAIRMAN MARINO: Okay.

16 MR. TILLOTSON: And that's, that's -- it was clear in
17 the record. There was discussion of that. And Judge Kuhlmann
18 talked about the fact that the people that could have
19 verified, corroborated, you know, weren't even called.

20 In this case, you've heard Mr. Lynch tell you about how
21 he had two employees come forward and corroborate the stuff.
22 When you read their testimony in the record, they didn't
23 corroborate that these programs ran these, in this quantity of
24 time or whatever. They said generally, oh yes, we ran public
25 service announcements. And generally, yes, we ran, you know,

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 news and weather or whatever. But they didn't verify and
2 corroborate that here's Exhibit 6 that claimed that particular
3 things were a particular duration or the particular frequency
4 ran with that. And they admitted that they really couldn't to
5 that.

6 Mr. [redacted] admitted the [redacted] that that

1 | than PSAs which is a term of art did they say that they
2 | broadcast?

3 | MR. TILLOTSON: They said they did PSAs which they
4 | did --

5 | MR. BLUMENTHAL: I said apart from those.

6 | MR. TILLOTSON: They said they did something called
7 | remotes. And as I understand a remote, it's the blood mobile
8 | is a "remote." The Red Cross you're doing -- you're helping
9 | the Red Cross sponsor's blood mobile, so someone from the
10 | station goes out with a remote unit to the blood mobile site.

11 | Red is between the day the normal media on the radio

1 MR. TILLOTSON: That Tri-County Notebook did something,
2 talked about something, responded to issues, addressed issues.
3 It's just there. Tri-County Notebook. So many hours or
4 minutes a week. They claim that they did news. There's no
5 indication of what issues were covered by news.

6 MR. BLUMENTHAL: All right. I don't -- I admit that's
7 irrelevant.

8 MR. TILLOTSON: They claim they did sports.

9 MR. BLUMENTHAL: I assume if they did news --

10 MR. TILLOTSON: They claim they covered --

11 MR. BLUMENTHAL: -- I, I can't imagine --

12 MR. TILLOTSON: Concerts.

13 MR. BLUMENTHAL: -- I can't imagine one broadcast
14 station in the world. Mr. Tillotson, if I asked you to tell
15 me what the lead story was on the front page of 2 days
16 Washington Post, you couldn't remember. But we'll assume
17 there was news there.

18 MR. TILLOTSON: Bosnia.

19 MR. BLUMENTHAL: What?

20 MR. TILLOTSON: Bosnia.

21 CHAIRMAN MARINO: Come on. Mr. Tillotson --

22 MR. BLUMENTHAL: She had -- no, she had a --

23 CHAIRMAN MARINO: That was about a 43 logistically --

24 MR. BLUMENTHAL: -- she, she had a nanny problem.

25 Bosnia's gone.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 CHAIRMAN MARINO: Paragraph 43 of the judge's findings
2 seem to be pretty specific on Tri-County Notebook.

3 MR. TILLOTSON: And it didn't -- it doesn't talk about
4 it's responding to issues. It talks about -- all it does is
5 it parrots what it says in the Tri-County Notebook was so many
6 times a week or whatever. And it's parroting what he said in
7 Exhibit 6. The logs that we put in the record show that the,
8 as logged it wasn't what he said it was. Exhibit 6 was for a
9 period after the renewal period.

10 The judge went through and gave him credit for --
11 essentially everything he said he did in Exhibit 6 the judge
12 recited back and said yes, he did it. But where is the nexus
13 that you, that the Commission, the Review Board says is
14 required between the issues in the community and --

15 MR. BLUMENTHAL: How much time does Mr. Tillotson -- I
16 don't want him to get --

17 MS. ALLISON: Three minutes left.

18 MR. BLUMENTHAL: Three minutes. I don't want --

19 MR. TILLOTSON: How many? Three minutes?

20 MR. BLUMENTHAL: Yeah. I don't want you -- I want
21 you --

22 MS. ALLISON: Out of 20.

23 MR. TILLOTSON: Do you have a --

24 MS. GREENE: I have a question --

25 MR. BLUMENTHAL: No, I wanted you to use them in, in

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 the best way you possibly could.

2 CHAIRMAN MARINO: Board, Board Member Greene --

3 MR. TILLOTSON: Yes.

4 CHAIRMAN MARINO: -- has the floor.

5 MS. GREENE: Well, get back to the question that I
6 asked you about issue programming. Are you saying that the
7 only public service programming that we can consider for the
8 renewal expectancy is that which is in response to the issues?

9 MR. TILLOTSON: No. You -- the, the -- at renewal time
10 when challenged in particular, the law says the renewal
11 applicant seeking renewal expectancy must come forward with
12 evidence that says here were issues that I ascertained in my
13 community, and here's programming that I put on my radio
14 station to respond to it. It's not sufficient to simply put
15 in a list of programs and they say, for example, we did a, we
16 did a blood mobile drive. And then for the Mass Media Bureau
17 said well, was that responsive to a community issue and to say
18 yes and give them a renewal expectancy.

19 I would submit that every PSA that's broadcast for a
20 group in the community in response to some issue in the
21 community however trivial. This station was opportunistic.
22 If a group came to it and asked it to do a PSA, it did a PSA
23 for the group. It didn't do what the renewal expectancy says
24 it was supposed to do is find out what issues were important
25 in this community --

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947